Office - Supreme Court, U.S.
FILED
JAN 14 1982
ALEXANDER L. STEVAS,
CLERK

Nos. 80-1012, 80-1030, and 80-1052

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

BAXTER RICE, DIRECTOR
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

BOHEMIAN DISTRIBUTING COMPANY,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

WINE & SPIRITS WHOLESALERS OF CALIFORNIA,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

On Petitions for a Writ of Certiorari to the Court of Appeal of the State of California, Third Appellate District

---

~~MOTION OF HEUBLEIN, INC. FOR LEAVE TO FILE BRIEF AMICUS CURIAE AND~~ BRIEF OF AMICUS CURIAE HEUBLEIN, INC. IN SUPPORT OF THE PETITIONERS

RALPH J. SAVARESE
RAY A. JACOBSEN, JR.
E. LYNN MALCHOW
HOWREY & SIMON
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 783-0800
Attorneys for Amicus Curiae Heublein, Inc.

January 14, 1982

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

QUESTIONS PRESENTED

1. Did the California court of appeal err in ruling that the California designation statute, on its face, violates the Sherman Act, when the competitive restraint imposed by the statute is not the result of any contract, combination or conspiracy between private parties?

2. Did the California court of appeal err in ruling that the California designation statute violates the Sherman Act where:

   (a) The statute, by its terms, "clearly articulates and affirmatively expresses" a policy in favor of distribution through selectively designated wholesalers and against distribution through unauthorized wholesale channels; and

   (b) The policy in favor of distribution through selectively designated wholesalers and against distribution through unauthorized wholesale channels is directly imposed and enforced by, and hence, "actively supervised" by, the State itself?

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

Nos. 80-1012, 80-1030, and 80-1052

BAXTER RICE, DIRECTOR
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

BOHEMIAN DISTRIBUTING COMPANY,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

WINE & SPIRITS WHOLESALERS OF CALIFORNIA,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

On Petitions for a Writ of Certiorari to the Court of Appeal of the State of California, Third Appellate District

---

~~MOTION OF HEUBLEIN, INC. FOR LEAVE TO FILE BRIEF AMICUS CURIAE~~

Pursuant to Rule 42.3 of this Court, Heublein, Inc. ("Heublein") respectfully moves for leave to file the accompanying brief as amicus curiae in support of the petitioners. Consent to the filing of this brief has been

obtained from counsel for each of the three petitioners and also from counsel for respondents.

Heublein is a producer and importer of distilled spirits and wines which are sold in California and throughout the United States. Heublein has a direct and important interest in the outcome of this appeal, both as a marketer of distilled spirits in California and other states, and as a defendant in related state court litigation in Oklahoma. Moreover, Heublein respectfully submits that its participation as an amicus curiae will provide this Court with a more complete analysis of the legal issues in this case.

Heublein distributes its products in California and other states through a system of selectively authorized wholesalers. Heublein's authorized wholesalers make substantial investments and undertake a variety of tasks essential to Heublein's success in competing against other producers and importers of alcoholic beverages.

The California court of appeal's decision invalidated the California designation statute which prevented unauthorized California wholesalers from purchasing or accepting delivery of distilled spirits. By invalidating that statute, the decision below has enabled California wholesalers to secure supplies of Heublein's products even though they are not authorized as Heublein distributors. In particular, unauthorized California wholesalers have secured supplies of Heublein's products from Oklahoma wholesalers, who have interpreted that State's laws as requiring that Heublein ship to them unlimited quantities of products even when they intend to ship those products to California and other states. Such shipments from Oklahoma wholesalers to other states are referred to in the trade, and in the court of appeal's decision, as the "Oklahoma Connection."

Sales of Heublein's products by unauthorized wholesalers in California have caused substantial harm to Heublein because unauthorized wholesalers do not make the investments or perform the functions which are critical to the success of Heublein's products. Furthermore, sales

by unauthorized wholesalers have caused Heublein's authorized distributors to lose sales, to lay off sales employees and to lose the incentive to perform those functions necessary for Heublein to compete effectively. Unless the court of appeal's decision is reversed, sales by unauthorized wholesalers in California will continue, with their resulting adverse affects on the marketing of Heublein's products. Hence, Heublein has a direct and important stake in the outcome of this appeal.

Furthermore, several parties contend that there are at least fifteen other states which have laws similar to the California designation statute.[1] To the extent that the laws of other states are similar to the California designation statute, the court of appeal's decision creates doubt as to the validity of those laws and, thus, may adversely affect Heublein's ability to implement its selective distribution system in those other states.

Heublein is also substantially interested in this case because it is a defendant in an appeal pending before the Oklahoma Supreme Court in which the issue is the legality of distilled spirits shipments from Oklahoma wholesalers to unauthorized wholesalers in California. This Oklahoma appeal, *Central Liquor Co., et al. v. Oklahoma Alcoholic Beverage Control Board, et al.*, No. CJ-81-1413 (Okla. Dist. Ct. Aug. 11, 1981), *appeals docketed*, Nos. 57284, 57394 (Okla. Sup. Ct. Aug. 13 and 14, 1981), involves the issue whether, under Oklahoma law, distilled spirits producers are compelled to honor purchase orders from Oklahoma wholesalers when the products ordered are to be shipped to other states. If the California court of appeal's decision is reversed and the California designation statute is upheld, unauthorized California wholesalers will be unable to acquire

[1] Petition for Writ of Certiorari by Baxter Rice, Director, Department of Alcoholic Beverage Control of the State of California at 28-29 n.7; Petition for Writ of Certiorari by Wine & Spirits Wholesalers of California at Appendix E.

Heublein's products from Oklahoma wholesalers. In that event, the appeal before this Court will resolve, in part, the controversy underlying the Oklahoma litigation and, thus, directly affect Heublein's interest in that litigation.

Finally, in the accompanying amicus brief, Heublein shows that the California designation statute does not violate the Sherman Act for at least two reasons. The first reason is that the restraint imposed by the designation statute is not the result of any contract, combination or conspiracy, the existence of which is essential to the finding of a Sherman Act violation. Heublein also shows that the designation statute not only "clearly articulates and affirmatively expresses" a policy in favor of distribution through selectively authorized wholesalers, but also satisfies the "active supervision" test of the state action doctrine because the restraint arising from the statute is imposed directly by the State itself and not by private parties. To date, neither of these arguments has been made by any party to this appeal. Hence, Heublein's participation as an amicus is calculated to provide this Court with a more complete analysis of the legal issues which are central to the Court's disposition of this appeal.

CONCLUSION

For the foregoing reasons, Heublein, Inc. respectfully moves for leave to file the accompanying brief as amicus curiae.

Respectfully submitted,

RALPH J. SAVARESE
RAY A. JACOBSEN, JR.
E. LYNN MALCHOW
HOWREY & SIMON
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 783-0800
Attorneys for Amicus Curiae
Heublein, Inc.

January 14, 1982

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF AUTHORITIES	viii
INTEREST OF AMICUS CURIAE	2
SUMMARY OF ARGUMENT	2
ARGUMENT	4
I. THE CALIFORNIA DESIGNATION STATUTE DOES NOT VIOLATE THE SHERMAN ACT INASMUCH AS THE RESTRAINT IMPOSED BY THAT STATUTE IS NOT THE RESULT OF ANY CONTRACT, COMBINATION OR CONSPIRACY	4
II. THE CALIFORNIA DESIGNATION STATUTE SATISFIES THE REQUIREMENTS OF THE STATE ACTION DOCTRINE	7
A. By Its Terms, The California Designation Statute "Clearly Articulates And Affirmatively Expresses" A Policy In Favor Of Distribution Through Selectively Designated Wholesalers And Against Distribution Through Unauthorized Wholesale Channels	8
B. The California Policy In Favor Of Distribution Through Selectively Designated Wholesalers And Against Distribution Through Unauthorized Wholesale Channels Is Directly Imposed And Enforced By, And Hence, "Actively Supervised" By, The State Itself	9
CONCLUSION	11

TABLE OF AUTHORITIES

CASES — Page

Bates v. State Bar of Arizona, 433 U.S. 350 (1977) 9

California Retail Liquor Dealers Association v. Midcal Aluminum, Inc., 445 U.S. 97 (1980) 6, 8, 10

Continental T.V., Inc. v. GTE Sylvania Inc., 433 U.S. 36 (1977) 5

Fabert Motors, Inc. v. Ford Motor Co., 355 F.2d 888 (7th Cir. 1966) 4

Fuchs Sugars & Syrups, Inc. v. Amstar Corp., 602 F.2d 1025 (2d Cir.), *cert. denied*, 444 U.S. 917 (1979) 7

Harold Friedman, Inc. v. Kroger Co., 581 F.2d 1068 (3d Cir. 1978) 4

Joseph E. Seagram and Sons, Inc. v. Hawaiian Oke and Liquors, Ltd., 416 F.2d 71 (9th Cir. 1969), *cert. denied*, 396 U.S. 1062 (1970) 5

Morgan v. Division of Liquor Control, 1981-2 Trade Cas. ¶ 64,366 (2d Cir. 1981).....6, 7, 9, 10

Norman Williams Co. v. Rice, 108 Cal. App. 3d 348, 166 Cal. Rptr. 563 (1980) 2, 4

Parker v. Brown, 317 U.S. 341 (1943) 6, 7

Polytechnic Data Corp. v. Xerox Corp., 362 F. Supp. 1 (N.D. Ill. 1973) 7

United States v. Colgate & Co., 250 U.S. 300 (1919) 5

STATUTES

Federal

Sherman Act, 15 U.S.C. § 1 4

California

Business and Professions Code § 23672 (West 1964 & Cum. Supp. 1981) 2, 8

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

Nos. 80-1012, 80-1030, and 80-1052

BAXTER RICE, DIRECTOR
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

BOHEMIAN DISTRIBUTING COMPANY,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

WINE & SPIRITS WHOLESALERS OF CALIFORNIA,
Petitioner,

v.

NORMAN WILLIAMS COMPANY, *et al.*,
Respondents.

On Petitions for a Writ of Certiorari to the Court of Appeal of the State of California, Third Appellate District

---

BRIEF OF AMICUS CURIAE HEUBLEIN, INC. IN SUPPORT OF THE PETITIONERS

Heublein, Inc. ("Heublein") respectfully submits this brief as amicus curiae in support of the petitioners in these three consolidated appeals and urges that the order of the Court of Appeal of the Third Appellate District of the State of California be reversed.

INTEREST OF AMICUS CURIAE

The interest of Heublein as amicus curiae is fully set forth in the Motion of Heublein, Inc. For Leave To File Brief Amicus Curiae, filed concurrently with this brief.

SUMMARY OF ARGUMENT

The California court of appeal held unlawful, on its face, that portion of Section 23672 of the California Business and Professions Code which provides that: "A licensed importer shall not purchase or accept delivery of any brand of distilled spirits unless he is designated as an authorized importer of such brand by the brand owner or his authorized agent." Cal. Bus. & Prof. Code (West 1964 & Cum. Supp. 1981). The court of appeal found that the statute prevented unauthorized wholesalers from purchasing or accepting delivery of distilled spirits and concluded that such a competitive restraint constituted a *per se* violation of the Sherman Act. *Norman Williams Co. v. Rice*, 108 Cal. App. 3d 348, 166 Cal. Rptr. 563 (1980).

There are at least two reasons why the court of appeal's decision should be reversed. First, the Sherman Act requires a contract, combination or conspiracy between private parties. The designation statute neither compels nor authorizes any such contract, combination or conspiracy. Hence, the competitive restraint imposed by the designation statute does not violate the Sherman Act.

Second, the designation statute satisfies the requirements of the state action doctrine and, accordingly, is exempt from the Sherman Act. The designation statute, by its terms, "clearly articulates and affirmatively expresses" a policy in favor of distribution through selectively authorized wholesalers and against distribution through unauthorized wholesale channels. Moreover, because this policy of preventing unauthorized California wholesalers from purchasing or accepting delivery of distilled spirits is imposed directly by the State itself through enforcement of the designation statute, without the delegation of any discretion to private parties, the restraint resulting from this statute is "actively supervised" by the State.

ARGUMENT

I. THE CALIFORNIA DESIGNATION STATUTE DOES NOT VIOLATE THE SHERMAN ACT INASMUCH AS THE RESTRAINT IMPOSED BY THAT STATUTE IS NOT THE RESULT OF ANY CONTRACT, COMBINATION OR CONSPIRACY

The court of appeal invalidated the California designation statute on the ground that it constituted a *per se* violation of the Sherman Act. In the court's view, a *per se* violation was created because the statute prevented unauthorized California wholesalers from acquiring distilled spirits from wholesalers in other states. Although the designation statute does prevent unauthorized California wholesalers from purchasing or accepting delivery of distilled spirits, this result is not achieved through any contract, combination or conspiracy between private parties. In the absence of such a contract, combination or conspiracy, the designation statute does not violate the Sherman Act.

As is well established, Section 1 of the Sherman Act prohibits only those unreasonable restraints of interstate trade or commerce which result from a "contract, combination or conspiracy." 15 U.S.C. § 1; *Harold Friedman, Inc. v. Kroger Co.*, 581 F.2d 1068, 1072 (3d Cir. 1978); *Fabert Motors, Inc. v. Ford Motor Co.*, 355 F.2d 888, 890 (7th Cir. 1966). This fundamental prerequisite to a Sherman Act violation was not even addressed by the court of appeal. Rather, relying on 54 *Am. Jur.* 2d, Monopolies, Etc. § 1, p. 668, the court of appeal erroneously assumed that the Sherman Act proscribes all "devices or practices" which restrict competition. Determining that the designation statute would have such an effect, the court invalidated the statute. 108 Cal. App. 3d at 355; 166 Cal. Rptr. at 568.[1]

---

[1] Assuming, *arguendo*, that the restraint imposed by the designation statute resulted from a contract, combination or conspiracy between private parties, it is clear that, as a non-price vertical re-

The court of appeal should have upheld the designation statute under the Sherman Act because the California statute neither compels nor authorizes any agreement among private parties. The designation statute does not compel or permit an agreement between the brand owner and an authorized wholesaler which restricts an unauthorized wholesaler from acquiring the owner's brands. Rather, the statute itself prohibits unauthorized California wholesalers from obtaining distilled spirits from wholesalers in other states. The restraint, therefore, arises from the statute and is not the result of any contract, combination or conspiracy.

In addition to prohibiting distribution to unauthorized wholesalers, the designation statute does recognize and preserve the long-standing right of a brand owner unilaterally to select and limit the wholesalers with whom it will deal. *United States v. Colgate & Co.*, 250 U.S. 300, 307 (1919); *Joseph E. Seagram and Sons, Inc. v. Hawaiian Oke and Liquors, Ltd.*, 416 F.2d 71, 76, 78 (9th Cir. 1969), *cert. denied*, 396 U.S. 1062 (1970). The exercise of this right through the selective designation of particular wholesalers as authorized distributors is a unilateral act which, under the Sherman Act, does not create any contract, combination or conspiracy and is lawful even though it may limit the number of wholesalers carrying a given brand and, in that sense, may have a restrictive competitive effect.

---

straint, the competitive effect of such an agreement must be judged under the "rule of reason," which requires consideration of "all of the circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition." *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 49 (1977). The fact that the court of appeal did not examine the competitive effects of the designation statute under the "rule of reason," but instead determined that the statute resulted in a *per se* violation of the Sherman Act, is an additional ground on which the decision below should be reversed. Brief for the United States as Amicus Curiae at 8, 15-27.

In this regard, the California designation statute is similar to a Connecticut distilled spirits minimum markup statute unanimously upheld by the United States Court of Appeals for the Second Circuit in *Morgan v. Division of Liquor Control*, 1981-2 Trade Cas. ¶ 64,366 (2d Cir. 1981). Under that statute, producers unilaterally established their own prices to wholesalers. The prices charged by wholesalers to retailers were required to reflect a prescribed minimum markup over and above the price charged by producers. A separate minimum markup was statutorily imposed on prices charged by retailers to consumers. Rejecting the claim that a Sherman Act agreement was created by this statute, the appeals court held that no contract, combination or conspiracy was formed because the producer unilaterally established its price to wholesalers and the minimum wholesale and retail markups were prescribed by statute. *Id.* at 74,688.

The California designation statute is very different from the statute invalidated by this Court in *California Retail Liquor Dealers Association v. Midcal Aluminum, Inc.* (*"Midcal"*), 445 U.S. 97 (1980). The statute held contrary to the Sherman Act in that case compelled a wine producer to dictate to wholesalers the prices to be charged to retailers for the producers' brands, and thereby mandated the formation of resale price maintenance agreements between private parties. In contrast, the restraint under the designation statute preventing unauthorized wholesalers from purchasing distilled spirits is not the result of any agreement between private parties, but simply the result of the designation statute itself.

Furthermore, the State itself, when acting in a legislative and regulatory capacity, cannot be regarded as having entered into a Sherman Act contract, combination or conspiracy with owners of distilled spirits brands or any other party. This point was clearly established in *Parker v. Brown*, 317 U.S. 341 (1943). Although *Parker*

is best known for its holding that trade restraints mandated and supervised by State governments are immune from the Sherman Act as "state action," that decision also held that the State of California "made no contract or agreement and entered into no conspiracy in restraint of trade" in adopting and enforcing the California program for the pricing and production of raisins. *Id.* at 352.

This principle has been uniformly followed. The recent decision by the Second Circuit Court of Appeals in *Morgan v. Division of Liquor Control*, *supra*, held that no Sherman Act agreement resulted when the State of Connecticut by statute imposed minimum wholesale and retail markups on base prices established by a distilled spirits producer. To violate the Sherman Act, "the contract, combination or conspiracy must reflect an agreement between independent businessmen," *Fuchs Sugars & Syrups, Inc. v. Amstar Corp.*, 602 F.2d 1025, 1029 (2d Cir.), *cert. denied*, 444 U.S. 917 (1979), or "concerted action by separate business entities," *Polytechnic Data Corp. v. Xerox Corp.*, 362 F. Supp. 1, 8 (N.D. Ill. 1973).

For all these reasons, the restraint imposed on unauthorized wholesalers resulting from the designation statute is not the product of any contract, combination or conspiracy in violation of the Sherman Act and, on this ground alone, the court of appeal's decision should be reversed.

II. THE CALIFORNIA DESIGNATION STATUTE SATISFIES THE REQUIREMENTS OF THE STATE ACTION DOCTRINE

As noted above, the designation statute prevents unauthorized California wholesalers from purchasing or accepting delivery of distilled spirits. This restraint satisfies

the "state action" test set out in *Midcal* in that it is "clearly articulated and affirmatively expressed as state policy" and it arises from a policy which is "actively supervised" by the State itself. 445 U.S. at 105.[2]

A. By Its Terms, The California Designation Statute "Clearly Articulates and Affirmatively Expresses" A Policy In Favor Of Distribution Through Selectively Designated Wholesalers and Against Distribution Through Unauthorized Wholesale Channels

The prohibition against distribution of distilled spirits through unauthorized wholesale channels is "clearly articulated and affirmatively expressed as state policy," within the meaning of this Court's *Midcal* decision. Indeed, no party contends otherwise. The policy is plain on the face of the statute itself.

The statute provides that a "licensed importer shall not purchase or accept delivery of any brand of distilled spirits unless he is designated as an authorized importer of such brand by the brand owner or his authorized agent." Cal. Bus. & Prof. Code § 23672 (West 1964 & Cum. Supp. 1981). Thus, the terms of the statute clearly prohibit distribution through unauthorized wholesalers in favor of distribution through selectively designated wholesalers. Where, as here, the state policy is plainly dis-

---

[2] The act of designating authorized wholesalers is a unilateral act which, as shown above, is lawful under the antitrust laws. (*See* page 5, *supra.*) Thus, the state action doctrine, and its "active supervision" requirement, are not necessary to uphold this element of the designation statute. Nevertheless, even as to this element of the statute there exists an administrative system for the active supervision of the designation process. Petition for Writ of Certiorari by Wine & Spirits Wholesalers of California at 21; Brief of Amicus Curiae United States Brewers Association in Support of Petition for Writ of Certiorari at 9.

cernible on the face of the statute at issue, there can be no doubt that the first prong of the *Midcal* test is met. *Bates v. State Bar of Arizona*, 433 U.S. 350, 362-63 (1977) (State Supreme Court rules banning lawyer advertising "reflect a clear articulation of the State's policy with regard to professional behavior"); *Morgan v. Division of Liquor Control*, *supra*, at 74,688-89 (minimum markups on alcoholic beverages were "explicitly prescribed in the statutes themselves").

B. The California Policy in Favor of Distribution Through Selectively Designated Wholesalers and Against Distribution Through Unauthorized Wholesale Channels Is Directly Imposed and Enforced By, and Hence, "Actively Supervised" By, the State Itself

Where the trade restraint at issue is imposed directly by the State itself, without private action, the restraint is exempt from the Sherman Act as "state action." Thus, in *Bates v. State Bar of Arizona*, *supra*, this Court upheld the State of Arizona's ban on lawyer advertising as "state action" where the alleged restraint was imposed and enforced by the State of Arizona itself. The advertising ban was legally operative without private action. No discretion with respect to advertising was delegated to private parties. The ban as promulgated was enforced by the State and, in such circumstances, this Court found "state action" and not private action.

Here, as in *Bates*, the State itself directly imposes the restraint complained of and leaves nothing to the discretion of private parties. The reason why unauthorized wholesalers cannot purchase or accept delivery of distilled spirits is because, by its terms, the designation statute prevents them from doing so. Historically, the policy of the designation statute has been vigorously en-

forced. Indeed, the State of California is here defending its right to enforce the designation statute.

The absence of private involvement in the formulation and imposition of the restraint distinguishes this case from *Midcal*. The statute in *Midcal* was appropriately ruled unlawful because the resale price maintenance restraint challenged in that case was established by private parties. This Court held in *Midcal* that in order for privately established restraints to constitute "state action," they must be "actively supervised" by the State. 445 U.S. at 105-06.

Because the restraint at issue here is not dependent upon private action for its formulation or imposition, there is no private action for the State to supervise. The restraint is directly imposed by the State itself, without any discretion given to private parties, and, therefore, the "active supervision" required by *Midcal* is satisfied by the enforcement of the statute.

This principle was recently recognized in *Morgan v. Division of Liquor Control*, *supra*, where retailer and consumer groups challenged a Connecticut distilled spirits minimum markup statute on the ground that the markups restrained price competition. The minimum markups were established and imposed by the challenged statute without any private party involvement. The appeals court found that this was "active supervision" for purposes of the state action doctrine.

Here, as in *Morgan*, the restraint imposed by the designation statute is directly imposed by the State itself and is not the result of any discretion having been delegated to private parties. Hence, that restraint is "actively supervised" by the State and the designation statute is exempt from the Sherman Act as state action.

CONCLUSION

For the foregoing reasons, Heublein, Inc. respectfully submits that the decision of the Court of Appeals of the Third Appellate District of the State of California should be reversed and that the portion of Section 23672 of the California Business and Professions Code at issue in this appeal should be declared valid.

RALPH J. SAVARESE
RAY A. JACOBSEN, JR.
E. LYNN MALCHOW
HOWREY & SIMON
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 783-0800
Attorneys for Amicus Curiae Heublein, Inc.

January 14, 1982

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of January, 1982, three copies of the Motion of Heublein, Inc. for Leave to File Brief Amicus Curiae and Brief of Amicus Curiae Heublein, Inc. in Support of the Petitioners were mailed, first-class mail, postage prepaid, to the following:

George Deukmejian, Attorney General
George J. Roth, Deputy Attorney General
555 Capitol Mall, Suite 350
Sacramento, California 95814
Attorneys for Petitioner Baxter Rice
Director, Department of Alcoholic
Beverage Control of the State of California

Frank Rothman
Christina A. Snyder
Wyman, Bautzer, Rothman, Kuchel & Silbert
Two Century Plaza
2049 Century Plaza East
Los Angeles, California 90067
Attorneys for Petitioner
Bohemian Distributing Company

Joseph A. Ball
Michael J. Maloney
James Polish
Ball, Hunt, Hart, Brown and Baerwitz
445 South Figueroa Street
33rd Floor
Los Angeles, California 90071

William T. Chidlaw
Point West Executive Centre
1455 Response Road, Suite 191
Sacramento, California 95815

Attorneys for Petitioner Wine & Spirits
Wholesalers of California

Leland R. Selna, Jr.
George G. Weickhardt
Feldman, Waldman & Kline
2700 Russ Building
235 Montgomery Street
San Francisco, California 94104

Attorneys for Respondents

I further certify that all parties required to be served have been served.

RALPH J. SAVARESE